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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
087941,602	09/30/97	MIZE	J 42765

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EXAMINER

NOLAN, S

ART UNIT	PAPER NUMBER
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1772

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DATE MAILED:

07/05/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/941,602

Applicant(s)

MIZE et al

Examiner

Sandra Nolan

Group Art Unit

1772



☒ Responsive to communication(s) filed on Jun 27, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-7, 18, 20, and 22-35 is/are pending in the applicat

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-7, 18, 20, and 22-35 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 15

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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DETAILED ACTION

Continued Prosecution Application

1. The request filed on April 19, 2000 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 08/941,602 is acceptable and a CPA has been established. An action on the CPA follows.

Information Disclosure Statement

2. The information disclosure statement submitted on June 27, 2000 (Paper No. 15) has been considered. A copy of the initialed Form PTO 1449 is enclosed.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- W/D:
4. Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by British specification 654,460.

Figure 18 of the British disclosure shows a lay flat bag having a reinforcing piece (page 1, col. 2, lines 85+) thereon. The figure shows that the "piece" is wrapped around a portion of the seamless edges of the bag, but does not touch the sealed bottom. The piece of the British disclosure is deemed a patch because it adheres to the surface of the bag and functions to reinforce it.

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Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

manuscript 6. Claims 1-7, and 22 - 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brady et al (WO 96/00688) in view of Williams et al (US 5,540,646).

Brady et al is discussed in paragraph 5 of Paper No. 9 (the Office Action mailed on July 21, 1999). Note that Figure 11 of Brady et al is the bag of claim 1 without a patch. Their bags are used to package meat (page 1, line 1 of the text). They do not teach a patch that covers a portion of the lay flat side of the bag, but does not cover either seal.

Williams et al show, in Figure 3, a patch that covers one unsealed edge of the outside surface of a sealed bag. Their bags are used to package meat (col. 1, lines 10+). They teach that the patch covers any area to be exposed to bone, and therefore risk of puncture, when meat is packaged therein (abstract). They do not show (1) the bag having seals at the side and the bottom or (2) the film thicknesses claimed.

It would have been obvious to one having ordinary skill in the art at the time that the invention was made to apply a patch to the meat packaging bag of Brady et al at the unsealed edge, per Williams et al, if the meat to be packaged had bones at the location on the bag that the

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patch reinforced, since Williams et al teach that, in similar bags, the patch should cover the area of the bad to be exposed to the bone.

Martin
7. Claims 20 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al (US 5,540,646).

Williams et al show, in Figure 4, a bag having seams at both sides and bearing a reinforcing patch on the seamless bottom edge. They teach that the patch covers any area to be exposed to bone when meat is packaged therein (abstract). They do not teach that the length of the patch is 101 to 200 percent of the length of the bag or that its width is 20 to 90 percent of the bag's width.

It would have been obvious to one having ordinary skill in the art at the time that the invention was made to enlarge the patch of Williams so that it covers 101 to 200 percent of the bag's length and/or 20 to 90 percent of its width, if the meat to be packages exposed a large portion of the bag to bone contact, and therefore, risk of puncture.

Martin
8. ^{18 and 19 (primarily 26-30)} Claims 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over the British disclosure as applied to claim 18 above, and further in view of Brady et al.

Both references are discussed above.

The British reference does not teach the laminar features of the claimed bag.

Brady et al do not show the backseaming and edge covering features claimed.

It would have been obvious to one having ordinary skill in the art to employ the films of Brady et al when making the substrate bags to be reinforced with the patches suggested by the

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British disclosure, in order to assure that uncovered portions had the strength needed to house and protect the meat products being stored and transported therein.

Munster 9. Claims 31, 32, 34, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brady et al in view of Williams et al.

Both references are discussed above.

Brady does not show the patch positioning shown in Figure 4 of Williams et al.

Williams et al do not show the laminar features of the films used in the claimed bags.

It would have been obvious to one having ordinary skill in the art at the time that the invention was made to employ the films of Brady et al in making the substrate bags of Williams et al and to apply patches thereto, as shown in Williams et al's Figure 4. The bags produced would have the beneficial properties of Brady et al's bags (e.g., the multilayer laminar features of page 7 of Brady et al) as well as the reinforced portions to resist puncture by bones (per Williams et al).

Response to Arguments

10. Applicant's arguments with respect to claims 1-7, 18, 20, and 22-35 have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sandra M. Nolan, whose telephone number is (703) 308-9545. The examiner can normally be reached on Monday through Thursday from 7:00 am to 4:00 pm. The examiner can also be reached on alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ellis P. Robinson, can be reached on (703) 308-2364. The fax phone number for the organization where this application is assigned is (703) 305-5408.

The telephone number for the receptionist is (703) 308-0661.


Ellis Robinson
Supervisory Patent Examiner
Technology Center 1700

SMN/smn
June 30, 2000
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